



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1998-0007; FRL-9500-4]

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Deletion of the State Marine of Port Arthur Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the State Marine of Port Arthur (SMPA) Superfund Site located in Port Arthur, Texas (Jefferson County), from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality, because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than operation, maintenance, and Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective [insert date 60 days from date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days from date of publication in the *Federal Register*]. If adverse comments are

received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES:

Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-1998-0007, by one of the following methods:

- *http://www.regulations.gov*: Follow internet on-line instructions for submitting comments.
- *E-mail*: Rafael Casanova, *casanova.rafael@epa.gov*.
- *Fax*: 214-665-6660.
- *Mail*: Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF-RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202-2733.
- *Hand delivery*: U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202-2733; Contact: Rafael A. Casanova (214) 665-7437. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-AFUND-1998-0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI

or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in

<http://www.regulations.gov> or in hard copy at:

1. U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202-2733; Hours of operation: Monday thru Friday, 9:00 am to 12:00 pm and 1:00 pm to 4:00 pm. Contact: Rafael A. Casanova (214) 665-7437.

2. Port Arthur Public Library; 4615 9th Avenue; Port Arthur, Texas 77642-5799;

Hours of operation: Monday thru Thursday, 9:00 am to 9:00 pm; Friday, 9:00 am to 6:00 pm; Saturday, 9:00 am to 5:00 pm; and Sunday, 2:00 pm to 5:00 pm.

FOR FURTHER INFORMATION CONTACT:

Rafael A. Casanova, Remedial Project Manager; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF-RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202-2733; telephone number: (214) 665-7437; *e-mail*: *casanova.rafael@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 6 is publishing this direct final Notice of Deletion for the State Marine of Port Arthur (SMPA) Superfund Site (Site), from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR Part 300 which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment.

Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days after this publication in the *Federal Register*]. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent for Deletion in the “Proposed Rules” section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion and the deletion will not take effect. EPA, will as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the SMPA Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA’s action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further

response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. responsible parties or other persons have implemented all appropriate response actions required;
- ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to the deletion of all areas and media within the SMPA Superfund Site:

1. EPA has consulted with the state of Texas prior to developing this direct final Notice of Deletion and the Notice of Intent for Deletion co-published in the “Proposed Rules” section of the **Federal Register**.
2. EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent for Deletion prior to their publication today, and the state, through the Texas Commission on Environmental Quality, has concurred on this deletion of the Site from the NPL.
3. Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent for Deletion is being published in a major local newspaper, The Port Arthur News. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Deletion of the Site from the NPL.
4. The EPA placed copies of documents supporting the deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.
5. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Deletion and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the SMPA Superfund Site from the NPL. A map of the Site, including the aerial extent of the Site proposed for deletion, is available in the deletion docket:

Site Location and History

The SMPA Superfund Site (Site, CERCLIS ID - TXD099801102), a former barge-cleaning operation and municipal landfill, occupied a 17-acre industrial tract of land located approximately 4.5 miles east-northeast of the City of Port Arthur on Old Yacht Club Road on Pleasure Islet. Pleasure Islet is a peninsula located approximately 0.5 miles southwest of the mouth of the Neches River. The Site is bordered by the Palmer Barge Line Superfund Site to the north, by Old Yacht Club Road to the west, by undeveloped property to the south, and Sabine Lake to the east.

Pleasure Islet is a manmade landmass consisting of dredge spoils generated during the construction and maintenance of the Sabine-Neches canal, also called the Intercoastal Waterway. The canal was constructed between 1898 and approximately 1920 in the vicinity of Sabine Lake and the Neches River, between the current Site location and the mainland. Between 1955 and 1957, a portion of the canal along the

western side of Pleasure Islet was abandoned, and a new canal was cut along the eastern and southern sides of Pleasure Islet. Pleasure Islet was created when a land bridge was constructed across the abandoned portions of the canal, between the northern tip of Pleasure Island and the mainland. Vehicle access to the Site is limited to a single dirt road starting at the western Site border along Old Yacht Club Road.

Ownership of Pleasure Islet was transferred from the State of Texas to the City of Port Arthur, Texas, in 1955. Development of the islet and the Site began after 1957, following construction of the land bridge across the abandoned portions of the Sabine-Neches Canal. In approximately 1963, the City of Port Arthur began municipal landfill operations in the northern and central portions of the islet. Initially, the landfill consisted of a burn pit in which wastes were incinerated. By December 1969, burn operations were discontinued, and the landfill was used solely for disposal of wastes. Between 1969 and 1972, landfill disposal operations expanded to include the central and northern portions of the Site and the property north of the Site. Between 1972 and 1974, disposal activities were generally concentrated in the northern parts of the islet. In December 1974, the City of Port Arthur closed the landfill in accordance with Texas Department of Health regulations, which required covering the entire landfill with approximately two feet of fine-grained fill material. The cover material is believed to be dredge spoils that originated on the islet. Site operations began about 1973 under the names of State Welding and Marine Works and the Golden Triangle Shipyard. The construction of wastewater impoundments in the northwestern portion of the Site was also reported. The impoundments were reportedly unlined earthen dike areas approximately two acres in size used to store oil and wastewater from barge-cleaning operations. Inspection reports

indicate that wastewater from barge-cleaning operations was directed to two aboveground storage tanks and then pumped to the wastewater impoundments. Some of the oil from the tanks was diverted to an old ship, located on the land, that was used as an oil/water separator. Oil from the separator was collected for reuse, potentially on the Site. The Site included the locations of the former wastewater impoundments, waste water treatment facility, tar burn area, above ground storage tank area, maintenance shed area, distillation column, the former location of the Lauren Refining Company Tank Farm area, non-source areas of the Site, sediments, and ground water. The Site is currently being operated by the owner as an industrial property for metal scrapping activities.

The surface water migration pathway was scored as part of the Hazard Ranking System Documentation Record. EPA determined that the Site warranted further investigation to assess the nature and extent of the human health and environmental risks associated with the Site's previous barge-cleaning and landfill activities. The site was proposed to be included on the NPL on March 6, 1998 (63 FR 11340) and made final July 28, 1998 (63 FR 40182).

The EPA's Time Critical Removal Action, completed in August 2001, consisted of the removal and off-site disposal of waste materials, water treatment, oil and water separation, and stabilization and off-site disposal of sludge materials. This Removal Action addressed the materials that posed a risk to human health and ecological receptors.

The investigations of the Site included the locations of the former wastewater impoundments, waste water treatment facility, tar burn area, above ground storage tank area, maintenance shed area, Lauren Refining Company tank farm area, non-source areas of the Site, ground water, and the sediments of Sabine Lake.

Remedial Investigation and Supplemental Remedial Investigation

The objectives of the Remedial Investigation (RI) for the Site were to:

- To determine the nature and extent of contamination known or suspected on-site and off-site locations, and
- To assess the potential human health and ecological risks associated with the Site.

The objectives of the Supplemental Remedial Investigation (SRI) for the Site were to:

- Collect and analyze sediment samples to determine if contaminants in Sabine Lake sediments posed an unacceptable risk to benthic organisms.
- Collect and analyze subsurface soil samples from the wastewater impoundment area to determine if contaminants in the impoundment soil could serve as a potential source of contamination to the ground water and eventually to benthic organisms in the sediments of Sabine Lake.
- Collect and analyze subsurface soil samples from the wastewater impoundment area to determine if contaminants in the impoundment soil posed an unacceptable risk to future onsite construction workers.
- Install and develop monitoring wells at two of the soil boring locations in the wastewater impoundment area for associated ground water sampling.

- Collect and analyze ground water samples to determine if Site ground water is a current or potentially future source of contamination to benthic organisms in Sabine Lake.
- Store, analyze, and properly dispose of any investigation-derived waste that is produced during field activities in support of the Supplemental Remedial Investigation.

The RI scope of work focused on collecting additional information not obtained during previous investigations. The 2001 RI investigation consisted of two sampling events. The first sampling event consisted of collecting sediment samples from off-site locations in Sabine Lake. The second sampling event consisted of collecting soil and ground water samples from on-site locations. The following tasks were completed during the RI:

- Completion of five shallow and six deep borings ranging in depths from 4.0 to 9.0 and 25.0 to 60.0 feet below the ground's surface (bgs), respectively.
- Installation of six ground water monitoring wells.
- Collection of surface soil samples from 87 locations ranging in depth from 0.0 to 6.0 inches bgs.
- Collection of intertidal samples from nine locations ranging in depth from 0.0 to 6.0 inches bgs.
- Collection of sediment samples from 46 locations ranging in depth from 0.0 to 6.0 feet bgs.

The RI analytical results were compared to commercial/industrial protective concentration levels (PCLs) established by the Texas Risk Reduction Program, and where appropriate, to background levels for the Site's contaminants of concern (COCs).

The most frequently detected COCs for all sediment samples collected were metals including arsenic, lead, and mercury. For intertidal sediments, six metals (antimony, arsenic, cadmium, lead, mercury, and selenium) and one semi-volatile organic compound (SVOC, pentachlorophenol) exceeded their respective PCLs. Constituents that exceeded PCLs for nearshore sediments included six metals (arsenic, barium, beryllium, cadmium, lead, and mercury) and one SVOC (3,3 dichlorobenzidine). Only arsenic, lead, and mercury exceeded PCLs for off-shore sediments.

The most frequently detected COCs for soils were metals including antimony, arsenic, barium, lead, mercury, and silver. These metals consistently exceeded the ^{Gw}Soil PCL (i.e., the soil-to-ground water leaching of COCs to ground water). Based on the distribution of these constituents, their occurrence is most likely a result of the former incineration and landfill operations. In general, the metals were widely distributed across the Site and not limited to the Site's source areas.

Isolated detections of the SVOCs (benzo[a]pyrene, benzo[a]anthracene, benzo[a]fluoranthene, and pentachlorophenol) were reported at relatively low concentrations for on-site soils. Because the SVOC exceedances were only detected at isolated locations, impact from operations on the Site appeared minimal.

Nine constituents including eight metals (antimony, arsenic, barium, beryllium, lead, manganese, silver, and thallium) and one SVOC (pentachlorophenol) exceeded ^{Gw}Soil_{Ing} PCLs (Exposure pathway: soil-to-ground water leaching COCs to ground

water). Based on a preliminary comparison of ground water analytical results to Class 3 ground water criteria, no constituents exceeded Class 3 ground water PCLs and it is unrealistic to assume any beneficial use of the shallow ground water. The State of Texas defines ground water resources based on water quality and sustainable well yield. A Class 3 ground water bearing unit is not capable of producing greater than a 150 gallon/day ground water flow with a Total Dissolved Solids content less than 10,000 milligrams/liter.

The SRI included an investigation of the former wastewater impoundments to determine if waste materials were still present that could be a source of contamination to the Sabine Lake sediments. Soil samples were analyzed for metals and SVOCs. The SRI also included the installation of ground water monitoring wells downgradient of the former wastewater impoundments and the collection of sediments samples from Sabine Lake. These samples were also analyzed for metals and SVOCs.

The screening level ecological risk assessment indicates that selenium concentrations in the Site sediments from the SRI may pose a risk to benthic invertebrates; however, the selenium concentrations are within one order of magnitude of the primary effects screening level. Furthermore, results from the soils and ground water data do not indicate that a selenium pathway exists from the Site to the sediments as the potential source of selenium contamination. Therefore, the EPA has determined that no Remedial Action is warranted for the Site soils to prevent contamination of the Site sediments. Based on selenium concentrations in the sediments, no Remedial Action is warranted for the Site sediments to protect ecological receptors.

Selected Remedy

Based on the results of the Baseline Human Health Risk Assessment (BHHRA) and Screening Level Ecological Risk Assessment (SLERA), the EPA's Selected Remedy for the SMPA Superfund Site, identified in the April 2007 Record of Decision, was "No Further Action is Necessary." Institutional controls will be required to ensure that the current and future use of the Site remains for industrial or commercial purposes. The "No Further is Action Necessary" remedy is based on an industrial/commercial land use scenario.

Remedial Action Objectives

The Remedial Action Objectives (RAOs) for the Site are based on the future redevelopment of the Site for industrial/commercial land use and protecting future industrial/construction workers and ecological receptors. The RAOs for the Site were:

- Prevent exposure to contaminated soil/sediment via ingestion, inhalation, or dermal contact that would result in an excess carcinogenic risk of 1.0×10^{-5} or a Hazard Index of 1.0.
- Prevent exposure of contaminated soil/sediment to aquatic or terrestrial organisms via direct contact or indirect ingestion of bioaccumulative chemicals that would result in a Hazard Quotient of 1.0.
- Prevent or minimize migration of soil contaminants to ground water.
- Prevent or minimize further migration of soil and sediment contaminants to surface water that could result in exceedance of ambient water quality criteria.

Response Actions

Based on the results of the BHHRA and SLERA, the EPA's Selected Remedy for the SMPA Superfund Site was "No Further Action is Necessary." The EPA has obtained a Restrictive Covenant from the landowner indicating that the future use of the property is restricted to commercial/industrial purposes. The Restrictive Covenant was filed in the appropriate property records at the County Clerk's office in Jefferson County on March 25, 2011.

Cleanup Goals

The cleanup goals, accomplished by the 2001 Time Critical Removal Action, included the removal, treatment, and off-site disposal of the liquids and sludges in the above ground storage tanks and drums. There were no cleanup goals selected in the Record of Decision.

Operation and Maintenance

Operation and maintenance activities at the Site will include surface water and sediment sampling. In addition, the restrictive covenant will be monitored to ensure it is effective in maintaining industrial/commercial land use at the Site.

Five-Year Reviews

Since remaining conditions at the Site will not allow for unlimited use and unrestricted exposure, a Five-Year Review must be conducted for the Site to ensure that future Site development is consistent with the industrial cleanup standards for which the remedy is based and that conditions remain protective of human health and the

environment. As part of the Five-Year Review, sediment sampling and monitoring will be considered in Sabine Lake adjacent to the Site to ensure that the remedy remains protective of ecological receptors. The EPA will conduct a statutory review before April 18, 2012.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which the EPA relied on for recommendation for the deletion from the NPL are available to the public in the information repositories, and a notice of availability of the Notice of Intent for Deletion has been published in The Port Arthur News to satisfy public participation procedures required by 40 CFR 300.425(e)(4).

Determination That the Criteria for Deletion Have Been Met

In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. The EPA, in consultation with the State of Texas (through the Texas Commission on Environmental Quality), has determined that based on the results of the BHHRA and SLERA and the completion of the EPA's Time Critical Removal Action that addressed contamination at the Site that posed a risk to human health and the environment, the EPA's Selected Remedy for the SMPA Superfund Site was "No Further Action is Necessary." The EPA has implemented all appropriate response actions required; no further response action by responsible parties is appropriate; and the RI, SRI, BHHRA, and SLERA, have shown that the release poses no significant threat to public health or the environment under a commercial/industrial land use scenario and, therefore, the taking of additional remedial measures is not appropriate.

EPA received a letter, dated May 25, 2011, from the State of Texas, through the Texas Commission on Environmental Quality, concurring on the deletion of the SMPA Superfund Site from the NPL.

V. Deletion Action

The EPA, with concurrence of the State of Texas, through the Texas Commission on Environmental Quality, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring, and Five-Year Reviews, have been completed. Therefore, EPA is deleting the SMPA Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 14, 2011.

Al Armendariz,
Regional Administrator, Region 6.

For the reasons set out in this document, 40 CFR Part 300 is amended as follows:

PART 300 - [AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B - [Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the entry “State Marine of Port Arthur, Jefferson County” under TX.

[FR Doc. 2011-31260 Filed 12/05/2011 at 8:45 am; Publication Date: 12/06/2011]